

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

DECEMBER 13, 2017 FOIA TO DOJ (STRZOK AND PAGE)

6. On December 13, 2017, Plaintiffs submitted the following FOIA request to DOJ, the Office of the Attorney General (“OAG”), the Office of the Associate Attorney General (“ASG”), the Office of Deputy Attorney General (“DAG”), the Office of Legislative Affairs (“OLA”), and the Office of Public Affairs (“PAO”): “Emails, memos, letters, between the OAG, the Office of Legislative Affairs, Office of Inspector General and the Office of Public Affairs and the FBI mentioning or referring to inviting to DOJ and briefing news reporters about the contents of text messages between FBI agents Peter Strzok and Lisa Page, formerly working for Special Counsel Robert Mueller, about presidential candidates Donald Trump, Hillary Clinton and others. Any and all documents, including but not limited to emails, mentioning or referring to congressional inquiries of these text messages and the individuals who sent and received them.” Exhibit A.

7. Plaintiffs also filed for a fee waiver in this request. Exhibit A.

8. DOJ assigned the following numbers to the requests: DOJ-2018-001426 (AG), DOJ-2018-001427 (ASG), DOJ-2018-001428 (DAG), DOJ-2018-001429 (OLA), DOJ-2018-001430 (PAO). Exhibit B.

9. On January 10, 2018, DOJ acknowledged receipt of the requests and asserted that due to “unusual circumstances,” “we will need to extend the time limit to respond to your request beyond the ten additional days provided by the statute.” Exhibit B.

10. As of the date of this filing, DOJ has not issued a determination and has produced no responsive records.

MAY 17, 2019 FOIA TO DOJ (MUELLER TESTIMONY)

11. On December May 17, 2019 Plaintiffs submitted the following FOIA request to DOJ, the Office of Legal Counsel (“OLC”): “[a]ll letters, emails, memos, reports, legal opinions mentioning or referring to Robert Mueller’s testimony before Congress” and “[a]ll records, including emails, memos, letters, legal opinions, and reports, exchanged between the Office of Legal Counsel and the Office of Attorney general memorializing discussions relating to Robert Mueller’s testimony before Congress” between “March 21, 2019 through the date of the search for responsive records is conducted.” Exhibit C.

12. Plaintiffs also requested a fee waiver. Exhibit C.

13. On June 14, 2019, OLC acknowledged receipt of the request, “tentatively assigned to the ‘complex’ processing track,” and assigned the following tracking number: FY19-144. Exhibit D.

14. In the same letter, OLC claimed: “[b]ecause of the considerable number of FOIA requests received by OLC prior to your request, our staff has not yet been able to process your request. Accordingly, we will be unable to comply with the statutory deadline for responding to your request. I regret the necessity of this delay, but I assure you that your request will be processed as soon as possible.” Exhibit D.

15. As of the date of this filing, DOJ has not issued a determination and has produced no responsive records.

16. This is the Plaintiffs’ fifth lawsuit in this District against DOJ in which DOJ failed to provide determinations by the required deadlines or promptly produce records. DOJ is engaged in a pattern and practice of asserting extensions beyond ten days in violation of the statute. *See* 19-cv-1278; 19-cv-1279; 19-cv-1647; and 19-cv-0810.

COUNT I – DOJ FOIA VIOLATIONS

17. The above paragraphs are incorporated herein.
18. DOJ and the DOJ components are agencies subject to FOIA.
19. Plaintiffs made FOIA requests to the DOJ Defendants for agency records.
20. The DOJ Defendants have failed to issue determinations and/or produce the requested records.

COUNT II – PATTERN AND PRACTICE

21. The above paragraphs are incorporated herein.
22. DOJ is engaged in a pattern and practice of asserting extensions that it is not permitted to take under the statute.

WHEREFORE, Plaintiffs ask the Court to:

- i. Order Defendants to produce the requested records;
- ii. Award Plaintiffs attorney fees and costs;
- iii. Enjoin DOJ from claiming extensions not permitted under the statute; and
- iv. Enter any other relief the Court deems appropriate.

Dated: September 18, 2019

RESPECTFULLY SUBMITTED,

/s/ Matthew V. Topic

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